IN THE HIGH COURT OF UTTARANCHAL
AT NAINITAL

Criminal Misc. Application No. 258 of 2006

Mohd. Mustafa S/o Khurshed
R/o Azad Colony Near New Sabji Mandi
Police Station Mandi
District Saharanpur (U.P.) ... Applicant

Vs

1. State of Uttaranchal
2. 1st Additional Civil Judge (J.D.)
   Roorkee, District Haridwar
3. Trilok Chand Sharma S/o Om Prakash Sharma
   Proprietor Dev Service Station
   Sikandarpur Bhaishwal
   R/o Village Sikandarpur Bhaishwal
   Police Station Bhagwanpur
   District Haridwar ... Opposite Parties

Sri Rajendra Singh, learned counsel for the applicant
Learned A.G.A. for the State

Hon'ble B.C. Kandpal, J.

This petition under Section 482 Cr.P.C. has been filed by the petitioner – Mohd. Mustafa who is facing the trial in a case Complaint Case No. 113 of 2006 Trilok Chand Sharma Vs Mustafa under Section 138 Negotiable Instrument Act Pending in the court of 1st Additional Civil Judge (J.D.) Roorkee, District Haridwar.

2. Brief facts of the case are that the complaint was filed by the opposite party No. 3 – Trilok Chand Sharma against the petitioner for the offence under Section 138 Negotiable Instrument Act. The court after having perused the entire record, summoned the petitioner vide order dated 15.02.2006 to face the trial under Section 138 Negotiable Instrument Act. The petitioner thus challenged the summoning order as well as prayed for quashing the entire aforesaid criminal proceedings pending against him.

3. Heard Sri Rajendra Singh, learned counsel for the petitioner, learned A.G.A. for the State and perused the record.

4. Having considered the arguments advanced by the learned counsel for the parties, I am of the view that there is no abuse of process of the court in this case. The averments made in the petition are the disputed question of fact, which can be assessed and judged by the trial court. I am not supposed to embark upon an enquiry with regard to the credibility of the evidence at this stage. Any judgment rendered by me would amount to premature judgment where the evidence is still incomplete and hazy.

5. The petition lacks merit and is liable to be dismissed.

6. Accordingly, the petition under Section 482 Cr.P.C. is dismissed.

(B.C. Kandpal, J.)

30.08.2006
ASWAL